

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

KY NGO,

Plaintiff,

v.

K. SEIBEL,

Defendant.

Case No. [17-cv-04362-JSC](#)

ORDER OF TRANSFER

Re: Dkt. No. 2

Petitioner, a California prisoner at Mule Creek State Prison, filed this pro se petition for a writ of habeas corpus under 28 U.S.C. § 2254.¹ The petition challenges the disciplinary proceedings at Centinela State Prison, where Petitioner was formerly incarcerated, which proceedings resulted in Petitioner's loss of 90 days of "good time" credits. Petitioner argues that such proceedings violated his right to due process because he received multiple "RVRs" (Rule Violation Reports) based upon a single course of conduct.

A petition for a writ of habeas corpus made by a person in custody under the judgment and sentence of a state court of a state which contains two or more federal judicial districts may be filed in either the district of confinement or the district of conviction. *See* 28 U.S.C. § 2241(d). Each of such districts shall have concurrent jurisdiction to entertain the petition; however, the district court for the district where the petition is filed may transfer the petition to the other district in the furtherance of justice. *See id.* If the petition is directed to the manner in which a sentence is being executed, e.g., if it involves time credits claims, the district of confinement is the preferable forum.² *See* Habeas L.R. 2254-3(b)(2); *Dunne v. Henman*, 875 F.2d 244, 249 (9th Cir. 1989).

As the instant petition challenges the loss of time credits, the district of confinement is the preferable venue for the petition. Mule Creek State Prison is located in Amador County, which lies within the venue of the Eastern District of California. *See* 28 U.S.C. § 84.

¹ Petitioner has consented to the jurisdiction of a United States Magistrate Judge pursuant to 28 U.S.C. § 636(c). (ECF No. 4.)

² Petitions challenging a conviction or sentence are heard in the district of conviction. *See Dannenberg v. Ingle*, 831 F. Supp. 767, 768 (N.D. Cal. 1993); *Laue v. Nelson*, 279 F. Supp. 265, 266 (N.D. Cal. 1968).

1 Accordingly, in the interest of justice, this case is TRANSFERRED to the United States
2 District Court for the Eastern District of California. In light of this transfer, ruling on Petitioner's
3 application to proceed in forma pauperis is deferred to the Eastern District. The Clerk shall
4 terminate these motions from this Court's docket (ECF No. 2) and transfer this matter forthwith.

5 **IT IS SO ORDERED.**

6 Dated: August 30, 2017

7
8 
9 JACQUELINE SCOTT CORLEY
United States Magistrate Judge

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CERTIFICATE OF SERVICE

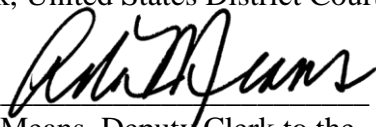
I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on August 30, 2017, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Ky Ngo ID: P-36760
Deuel Vocational Institution
P.O. Box 600
D-Wing 215 Low
Tracy, CA 95378-0600

Dated: August 30, 2017

Susan Y. Soong
Clerk, United States District Court

By: 
Ada Means, Deputy Clerk to the
Honorable JACQUELINE SCOTT CORLEY